



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/825,920

04/15/2004

Dale M. Pitt

BOEI-1-1250

8932

60483

7590

06/07/2006

LEE & HAYES, PLLC  
421 W. RIVERSIDE AVE.  
SUITE 500  
SPOKANE, WA 99201

EXAMINER

COLLINS, TIMOTHY D

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/825,920

Applicant(s)

PITT, DALE M.

Examiner

Timothy D. Collins

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 4, 14-25, 29 and 39-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-13, 26-28, 30-38 and 51-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/22/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

Claims 4, 14-25, 29, and 39-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/3/06.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 6, 7, 8, 9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by USPN 4751821 to Birchard (hereinafter called 821).

a. Re claim 1, 821 discloses a first actuator 2-1, and second actuator 2-2.

Also 821 discloses a linkage between them (see figure 11).

b. Re claim 2, 821 discloses that the actuator is hydraulic, see column 9 at top.

c. Re claim 6, 821 discloses a pushrod as seen in figure 11.

d. Re claim 7, 821 discloses a mount as seen in figure 11.

Art Unit: 3643

e. Re claim 8, 821 discloses that adding a first and second distance equals the third as seen in the figures.

f. Re claim 9, 821 discloses that the first and second actuators are capable of moving in first and second frequencies because they can physically be set to move or caused to move at different rates.

g. Re claim 11, 821 discloses a clevis as seen in figure 11.

h. Re claim 12, 821 discloses that the device may operate at 0 frequency.

3. Claims 1-3,5-9,11-13,26-28,30-38, and 51-60 are rejected under 35

U.S.C. 102(b) as being clearly anticipated by "An Advanced Buffet Load Alleviation System" AIAA-2001-1666 (called buffet).

i. See page 3, actuators are hydraulic (inherently in the F-18), and Piezo as seen in the reference as well as a pushrod (the end of the hydraulic cylinder).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art below discloses actuators and systems.

j. USPN 6481667 (discloses multiple actuators, could be used to make a rejection)

k. USPN 5135186

l. USPN 6257528


m. JP 2004299541

n. USPN 6821090

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Collins whose telephone number is 571-272-6886. The examiner can normally be reached on M-F, 7:00-3:00, with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 6/5/06  
Timothy D. Collins  
Patent Examiner  
Art Unit 3643